

12 CV 05684

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKABRAHAM CUCUTA,

(In the space above enter the full name(s) of the plaintiff(s).)

COMPLAINT

-against-

NEW YORK CITY POLICE DEPARTMENT, MANHATTAN
NORTH NARCOTICS DETECTIVES ERICK ORTL, ABEL
JOSEPH, CARPENTER, SERGEANT NEFTALI BETANCES,
POLICE OFFICER WINSTON FAVIS, AMASANTE AND
JOHN DOES 1-5, INDIVIDUALLY AND IN THEIR
OFFICIAL CAPACITY,Jury Trial: ☒ Yes ☐ No
(check one)

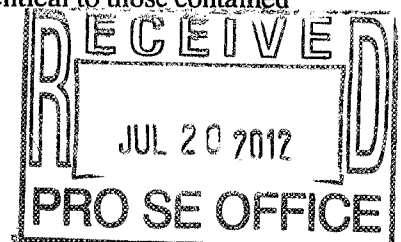
(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

- A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name ABRAHAM CUCUTA, REG. NO. 649784054
 Street Address 150 PARK ROW
 County, City NEW YORK, NEW YORK 10007
 State & Zip Code NEW YORK 10007
 Telephone Number _____

- B. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.



Defendants No. 1 Name ERICK ORTIZ, ABEL JOSEPH, CARPENTER, NEFTALI BETANCES,
 Street Address WINSTON FAVIS, AGUASANTE, JOHN DOES 1-5,
1 POLICE PAAZA
 County, City NEW YORK, NEW YORK
 State & Zip Code NEW YORK 10038
 Telephone Number _____

Defendant No. 2 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

Defendant No. 3 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

Defendant No. 4 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction? (check all that apply)

☒ Federal Questions

☐ Diversity of Citizenship

B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue? SEARCH AND SEIZURE, DUE PROCESS, EQUAL PROTECTION

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship _____

Defendant(s) state(s) of citizenship _____

III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. Where did the events giving rise to your claim(s) occur? 1952 SECOND AVENUE, APARTMENT 301, NEW YORK, NEW YORK 10029

B. What date and approximate time did the events giving rise to your claim(s) occur? APRIL 13TH, 2011, AT 12:30 PM.

C. Facts: SEE ATTACHED PAGES 4 AND 5.

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

IV. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

III. C. FACTS: 1) TAMIKA TAYLOR IS PLAINTIFF'S GIRLFRIEND, SHE RESIDES WITH HER FAMILY AT 1952 SECOND AVENUE, APARTMENT 301, NEW YORK, NEW YORK 10029.

2) PLAINTIFF KEPT SOME PERSONAL ITEMS SUCH AS CLOTHING, SHOES, AND OTHER THINGS, AT HIS GIRLFRIEND'S HOME AND WOULD SOMETIMES SLEEP OVER.

3) IT WAS UNDERSTOOD THAT NO ONE WOULD TAMPER WITH PLAINTIFF'S BELONGINGS UNLESS GRANTED PERMISSION BY PLAINTIFF OR HIS GIRLFRIEND, GIVING PLAINTIFF AN EXPECTATION OF PRIVACY IN THE HOME.

4) ON APRIL 13TH, 2011, AT 12:30PM, PLAINTIFF'S GIRLFRIEND WAS HOME WITH HER BROTHER ANDRE MONTGOMERY, FAMILY FRIEND ADAM HOLAN, AND HER THREE YEAR OLD SON (ALL OCCUPANTS).

5) NEW YORK CITY POLICE DEPARTMENT MANHATTAN NORTH NARCOTICS DETECTIVES ERICK ORTIZ, ABEL JOSEPH, CARPENTER, SERGEANT NEFTALI BETANCES, POLICE OFFICER WINSTON FAVIS, AGUIRRE, AND JOHN DOES 1-5, KNOCKED ON THE DOOR, CONFIRMED THAT MS TAYLOR WAS PLAINTIFF'S GIRLFRIEND, INFORMED HER THAT PLAINTIFF HAD JUST BEEN ARRESTED, AND LIED THAT THEY WANTED TO GIVE HER HIS PROPERTY SO THAT SHE WOULD OPEN ^{THE} DOOR.

6) IN RESPONSE, MS TAYLOR OPENED THE DOOR TO STEP OUT INTO THE HALLWAY, HOWEVER, THE DEFENDANTS STEPPED PAST HER AND ENTERED THE APARTMENT.

7) THE DEFENDANTS DID NOT REQUEST PERMISSION TO ENTER AND NONE WAS GIVEN.

8) ONCE INSIDE, THE DEFENDANTS STATED THEY HAD INFORMATION THAT THERE WAS A RIFLE IN THE APARTMENT, FAULTY CLAIMED THEY WERE GETTING A SEARCH WARRANT, AND DID NOT ALLOW THE OCCUPANTS TO GO ANYWHERE.

9) THE DEFENDANTS REFUSED TO COMPLY WITH MR MONTGOMERY'S REQUEST TO WAIT OUTSIDE IN THE HALLWAY IF THEY DID NOT HAVE A SEARCH WARRANT ^{REQUIRED} AND THAT THE OCCUPANTS ALSO HAD TO STAY THERE.

10) DEFENDANTS TOOK ^{MS TAYLOR'S} ~~OR~~ PHONE AND INFORMED HER THAT SHE COULD NOT MAKE ANY CALLS.

11) AS MS TAYLOR ATTEMPTED TO TEND TO HER SON IN A BEDROOM DEFENDANTS RESTRAINED AND HANDCUFFED HER AND HER BROTHER.

12) DEFENDANTS THEN BEGAN SEARCHING HER AND HER BROTHER'S BEDROOM.

13) DEFENDANTS THEN ENTERED MR HOGAN'S ROOM, PULLED HIS COVERS OFF HIM (HE WAS IN BED) AND HANDCUFFED HIM.

14) ALL OCCUPANTS WERE THEN REMOVED FROM THE APARTMENT AND HELD IN THE HALLWAY.

15) WHILE IN THE HALLWAY DRAWERS AND DOORS COULD BE HEARD BEING OPENED AND CLOSED AS THE DEFENDANTS ILLEGALLY SEARCHED THE PREMISES.

16) PERMISSION FOR THE WARRANTLESS SEARCH WAS NEVER GIVEN BY ANYBODY.

V. Relief:

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation. \$1,000,000 IN ^{NOMINAL} MONETARY, COMPENSATORY, AND PUNITIVE DAMAGES

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 17 day of JULY, 2012.

Signature of Plaintiff Abraham Limbo
 Mailing Address REG. NO. 64974-054
M.C.C. MANHATTAN
150 PARK ROW, N.Y., N.Y. 10007
 Telephone Number _____
 Fax Number (if you have one) _____

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint. Prisoners must also provide their inmate numbers, present place of confinement, and address.

For Prisoners:

I declare under penalty of perjury that on this 17 day of JULY, 2012, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff: Abraham Limbo
 Inmate Number 64974-054

ABRAHAM CUCUTA - 64974-054

M.C.C.

150 PARK

ROSENTHAL OFFICE

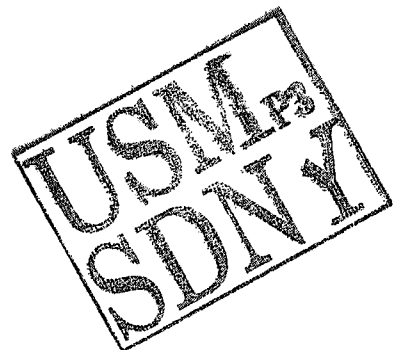
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SOUTHERN DISTRICT OF NEW YORK
DANIEL PATRICK MOYNIHAN
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New York, New York 10007

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